

UNITED STATES OF AMERICA
FEDERAL MEDIATION AND CONCILIATION SERVICE
VOLUNTARY LABOR ARBITRATION PROCEEDING

In The Matter of Arbitration Between:

THE CITY OF NEW PHILADELPHIA,
EMPLOYER,

and

FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.,
UNION.

GRIEVANT: DAVID CIMPERMAN
FMCS CASE NO.: 020124-037012-6

Arbitrator's Opinion and Award
Arbitrator: Dr. David M. Pincus
Date: December 20, 2002

Appearances

For the Employer

Robert J. Tscholl	Position
Det. Capt. Michael Goodwin	Attorney
Jennifer Arnold	MPPD
David Hipp	Attorney
Det. Lt. Orvis Campbell	Assistant Prosecutor
Amanda Robin	Tuscarawas Sheriff's Dept.
David Blackwell	Witness
Jason Ryan	Attorney
Philip Frymyer	Witness
Jeff Urban	Witness
	Chief of Police

For the Union

David Cimperman	Grievant
Michael Piotrowski	General Counsel FOP/OLCI
James Boomer	Staff Representative
Sheldon Demattio	Captain
Rocky Dusenberry	Traffic Officer

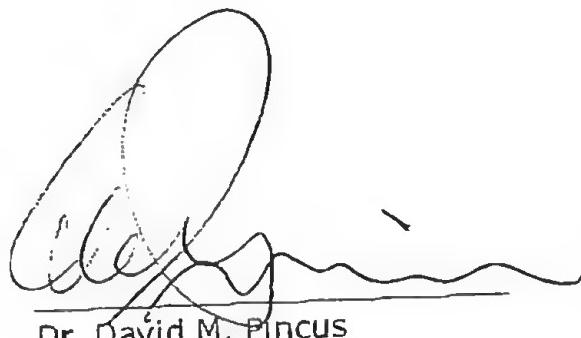
17. The Undisputed Nature of a Potential Armed Burglar

Finally, one of the undisputed facts in this case, was that the grievant arrived on the scene thinking that an armed break in had occurred for drugs. And it is also undisputed that the burglars actually got into the basement through a locked door. So it was not unforeseeable, in this Arbitrator's view, that access to the basement through the door was unrestricted because at least two others got through. And this Arbitrator does not view it as unusual that the grievant could not recite, chapter and verse, a complete and detailed description of the lock in circumstances where the everyone's lives were potentially in danger.

VII. The Reward

The Union's grievance is sustained. The grievant shall be reinstated with full back pay and benefits as a captain retroactively to August 23, 2001. No overtime shall be added to the backpay. Interim earnings shall be deducted from the backpay. The Arbitrator retains jurisdiction over any remedy disputes.

Moreland Hills, Ohio
December 20, 2001



Dr. David M. Pincus